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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,169	09/03/2003	Volker Kuhl	BATG-9	4347

27868 7590 02/28/2006

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EXAMINER

MAYES, DIONNE WALLS

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Upon review of Applicant's comments in the "Provisional Election of Species with Traverse", filed on 12/21/2005, it has been determined that the species-based Restriction Requirement, mailed on 12/01/2005, was not properly characterized. Therefore, the Examiner which is now in charge of examining the claims has determined that the claims are directed to the following patentably distinct species:
2. Regarding the comparison of the current size distribution and the optimal/nominal size distribution, Applicant is requested to select either:

Species A – wherein said is compared on the basis of their peaks or the overall area of the corresponding curve (claims 7 and 29), OR

Species B – wherein said is compared on the basis of the ratio between the size distribution for the winnowings and for the usable tobacco particles (claims 8 and 30),
3. Regarding the method for separating winnowings, Applicant is requested to select either:

Species C – using an impact sheet (claims 10-14, 31-33), OR

Species D – by adjusting the quantity, pressure or velocity or a conveying medium (claims 15-19).
4. The species are independent or distinct because they are different characterizations of the disclosed invention.

5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-6, 9, 20, and 24-28 are generic.

6. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

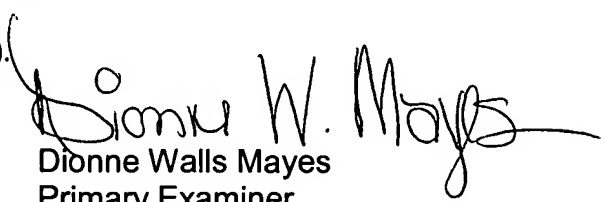
7. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Walls Mayes whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dionne Walls Mayes
Primary Examiner
Art Unit 1731

February 21, 2006